

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Monday, May 1, 2023**

**Hearing Room 1568**

10:00 AM

**2:23-10640 Christopher Dominick Viggiano**

**Chapter 7**

**#1.00** HearingRE: [13] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 BMW i8 Roadster 2D . (Skigin, Cheryl)

Docket 13

**Tentative Ruling:**

4/28/2023

**Note: Parties may appear at the hearing either in-person or by telephone. The use of face masks in the courtroom is optional. Parties electing to appear by telephone should contact CourtCall at 888-882-6878 no later than one hour before the hearing.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a Chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

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**CONT... Christopher Dominick Viggiano**

**Chapter 7**

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the Court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Evan Hacker at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Christopher Dominick Viggiano

Pro Se

**Trustee(s):**

John J Menchaca (TR)

Pro Se

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**2:23-11145 Anthony Lewis Perzow**

**Chapter 7**

**#2.00** HearingRE: [19] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 1727 Penmar Avenue #2, Venice, CA 90291 .

Docket 19

**Tentative Ruling:**

4/28/2023

**Note: Parties may appear at the hearing either in-person or by telephone. The use of face masks in the courtroom is optional. Parties electing to appear by telephone should contact CourtCall at 888-882-6878 no later than one hour before the hearing.**

This Motion has been set for hearing on shortened notice in accordance with Judge Robles' procedures. Oppositions, if any, will be considered at the hearing.

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1). The stay is terminated as to the Debtor and the Debtor's bankruptcy estate with respect to the Movant, its successors, transferees and assigns. Movant may enforce its remedies to obtain possession of the Property in accordance with applicable law, but may not pursue a deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

The Debtor has failed to make lease payments and continues to occupy the Property pursuant to a month-to-month tenancy that is in default. The Movant caused a notice to quit to be served on the Debtor on August 27, 2022 and filed an unlawful detainer action on January 23, 2023.

This Motion has been filed to allow the Movant to proceed with the unlawful detainer proceeding in state court. The unlawful detainer proceeding may go forward because the Debtor's right to possess the premises must be determined. This does not change simply because a bankruptcy petition was filed. See In re Butler, 271 B.R. 867, 876 (Bankr. C.D. Cal. 2002).

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**CONT... Anthony Lewis Perzow**

**Chapter 7**

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the Court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Evan Hacker at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Anthony Lewis Perzow

Represented By  
Michael E Clark

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

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**2:23-11519 Wesley Dunning**

**Chapter 7**

**#3.00** HearingRE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 2652 SOUTH PALM GROVE AVE., LOS ANGELES, CA 90016 . (Long, Helen)

Docket 9

**Tentative Ruling:**

4/28/2023

**Note: Parties may appear at the hearing either in-person or by telephone. The use of face masks in the courtroom is optional. Parties electing to appear by telephone should contact CourtCall at 888-882-6878 no later than one hour before the hearing.**

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Alleged Debtor and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Abraham Moreno, Jose Rendon, and Angie Cachu (collectively, the "Petitioners") filed an involuntary Chapter 7 petition against Wesley Dunning (the "Alleged Debtor") on March 16, 2023. On April 13, 2023, Watkins Real Estate Group Inc. (the "Movant") filed the *Motion for Relief from the Automatic Stay* [Doc. No. 9] (the "Motion") with respect to 2652 S Palm Grove Ave, Los Angeles, California 90016 (the "Property").

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) and § 105. The stay is terminated as to the Alleged Debtor and the Alleged Debtor's bankruptcy estate with respect to the Movant, its successors, transferees and assigns. The Movant may enforce its remedies to obtain possession of the Property in accordance with applicable law, but may not pursue a deficiency claim against the Alleged Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

Per the Motion, the Alleged Debtor continues to occupy the Property in the absence of any applicable lease agreement with the Movant. The Movant caused a notice to quit to be served upon the Alleged Debtor on June 5, 2022. The Movant filed

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**CONT... Wesley Dunning**

**Chapter 7**

an unlawful detainer action on June 17, 2022. Trial was continued to April 28, 2023.

This Motion has been filed to allow the Movant to proceed with the unlawful detainer proceeding in state court. The unlawful detainer proceeding may go forward because the Alleged Debtor's right to possess the premises must be determined. This does not change simply because a bankruptcy petition was filed. See In re Butler, 271 B.R. 867, 876 (Bankr. C.D. Cal. 2002).

Relief under Section 362(d)(4) of the Bankruptcy Code requires a finding that a debtor's filing of the bankruptcy petition was part of a scheme to delay, hinder, or defraud creditors that involved either (i) the transfer of all or part ownership of, or interest in, the property without the consent of the movant or court approval or (ii) multiple bankruptcies affecting the property. However, the Movant is not eligible for relief under § 362(d)(4) because the Movant is the owner of the Property, not a secured creditor. *See In re Ellis*, 523 B.R. 673, 679 (B.A.P. 9th Cir. 2014) ("a party seeking in rem relief under § 362(d)(4) must establish, and the bankruptcy court must find, that the movant is a creditor whose claim is secured by an interest in the property in question"). In *In re Robles*, No. 14-51812-ASW, 2014 WL 3715092, at \*1 (Bankr. N.D. Cal. July 24, 2014), the court granted *in rem* relief under § 105 where, as here, the debtor had abused the bankruptcy process to hinder an owner from obtaining possession of property.

Pursuant to § 105, the Court finds it appropriate to grant the following requested relief: the order is binding and effective in any bankruptcy case commenced by or against the Alleged Debtor for a period of 180 days, so that no further automatic stay shall arise in that case as to the Property. The Court finds that the Petitioners did not file the instant case to pursue legitimate bankruptcy objections, but instead sought bankruptcy protection to delay the Movant's unlawful detainer action. The summons [Doc. No. 6] was issued on March 23, 2023 and needed to be served on the Debtor within seven days. As more than a month has lapsed since the summons has been issued and no proof of service has been filed with the Court, the Petitioners have failed to timely serve the summons and involuntary petition on the Debtor. This is evidence that the instant case is not a legitimate involuntary petition. Additionally, per the Motion, bad faith is evidenced by the fact that: (i) the Movant is the only creditor or one of few creditors of the Alleged Debtor; and (ii) a prior involuntary petition (2:22-bk-14984-VZ), which was subsequently dismissed, was filed that affected the Property.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-

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**Wesley Dunning**

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day stay prescribed by FRBP 4001(a)(3) is waived. The following request for relief is granted: the order is binding and effective in any bankruptcy case commenced by or against the Alleged Debtor for a period of 180 days, so that no further automatic stay shall arise in that case as to the Property. The following request for relief is denied: a designated law enforcement officer may evict the Alleged Debtor and any other occupant from the Property regardless of any future bankruptcy filing concerning the Property for a period of 180 days from the hearing of the Motion without further notice. All other relief is denied.

The Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

No appearance is required if submitting on the Court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Evan Hacker at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

<b>Party Information</b>
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**Debtor(s):**

Wesley Dunning

Pro Se